

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 207 of the Telecommunications Act of 1996)	CS Docket No. 96-83
)	
Restrictions on Over-the-Air Reception Devices:)		
Television Broadcast, Multichannel Multipoint)		
Distribution and Direct Broadcast Satellite)		
Services)		

REPLY IN SUPPORT OF PETITIONS FOR RECONSIDERATION

The Satellite Broadcasting and Communications Association (ASBCA≡), through its attorneys, hereby files this Reply (AReply≡) in support of the Petition for Reconsideration filed by Winstar Communications, *et al.* (AWinstar Petition≡) and the Petition for Partial Reconsideration filed by the National Association of Broadcasters and the Association for Maximum Service Television (ANAB Petition≡) in the above-captioned proceeding on January 22, 1999.

INTRODUCTION

The Winstar and NAB Petitions assert that, although the Commission took an important step forward in the Second Report and Order released in this proceeding on November 20, 1998 (the Order), it should have expanded the scope of its Section 207 rules to cover *all* rental property. SBCA agrees. The underlying statute directs the Commission to prohibit restrictions that impair *any viewer's* ability to receive DBS, MMDS or television service, without distinction between owners and renters (particularly because of the adverse effect this distinction has on lower-income Americans, minority viewers and single-parent-headed households) or different categories of renters.

The Order adopted a conservative, limited expansion of the scope of Section 1.4000 of its rules, 47 C.F.R. §1.4000 (the Section 207 rules), applicable only to a narrow class of over-the-air reception devices on rental property. Specifically, this narrow expansion of the Section 207 rules covers only rental property where the leasehold includes exclusive use property, such as a balcony, patio or yard (the Revised Rule). As a practical matter, the expansion of the Commission's rules likely affects only a small percentage of rental properties nationwide. The Commission declined to expand the scope of its Section 207 rules to cover common property or restricted access property in a leasehold. Section 207 does not allow the Commission to make this distinction between different classes of renters. Accordingly, the Commission should grant the Winstar and NAB Petitions and expand the scope of its Section 207 rules to cover *all* rental property.

ARGUMENT

As the NAB and Winstar Petitions correctly state, by drawing a distinction between different classes of renters, the Commission fell short of fulfilling its statutory mandate.¹ The distinction between rental property Aunder the control≡ of a tenant and rental property that is Acommon or restricted≡ unnecessarily discriminates against one class of viewers, in contravention of Section 207 as well as general communications policy that favors viewers≡ freedom of choice with respect to television programming services.² The Commission had no authority to exclude any specific group of renters -- or any viewers at all -- from its Section 207 rules. Instead, it should have extended its Section 207 rules to cover *all* viewers, including all renters.

Congress was clear in its mandate when it required the Commission to Apromulgate regulations to prohibit restrictions that impair a *viewer≡*s ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.≡³ Congress drew no distinction between homeowners and renters or between categories of renters.

¹ National Association of Broadcasters and Association for Maximum Service Television, *Petition for Partial Reconsideration*, CS Docket No. 96-83, at 2 (Jan. 22, 1999) (ANAB Petition≡); Personal Communications Industry Association, Winstar Communications, Inc., Association for Local Telecommunications Services and Nextlink Communications, Inc., *Petition for Reconsideration*, CS Docket No. 96-83, at 3 (Jan. 22, 1999) (AWinstar Petition≡).

² NAB Petition at 2-4; Winstar Petition at 3.

³ Telecommunications Act of 1996, Pub. L. No. 104-104, §207, 110 Stat. 564 (1996) (emphasis added) (ASection 207≡ or the AAct≡).

Other public policy reasons also strongly support the need to protect viewers who are not homeowners. As SBCA pointed out in an earlier phase of this proceeding, lower-income Americans, minority viewers and single-parent-headed households make up a disproportionate share of the renting population.⁴ Thus the Commission should grant the Winstar and NAB Petitions and issue an Order applying its Section 207 rules to *all* rental property.

CONCLUSION

For all of the reasons set forth above, the Commission should grant the Winstar and NAB Petitions and expand its Section 207 rules to cover all rental property.

Respectfully submitted,

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Dated: March 22, 1999

⁴ See Further Comments of the Satellite Broadcasting and Communications Association of America, CS Docket No. 96-83, at 3-5 (Sept. 27, 1996).

CERTIFICATE OF SERVICE

I, James S. Bucholz, do hereby certify that copies of the foregoing **REPLY IN SUPPORT OF PETITIONS FOR RECONSIDERATION** were delivered, by U.S. Mail, on this 22nd day of March, 1999, to the following:

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